HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No.825 OF 2007

Between:

Syed Yousufuddin Khan ... Appellant.

AND

The
State of Andhra Pradesh,
represented by its Principal Secretary,
School Education Department,
Secretariat, Hyderabad and four others. ...
Respondents.

:: J U D G M E N T ::

Counsel for the appellant : Sri Syed Shareef Ahmed

Counsel for the respondents : Government Pleader for School Education.

11th October, 2007

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Per G.S.SINGHVI, C.J.

This appeal is directed against order dated 10.9.2007 passed by the learned Single Judge in Writ Petition No.16859 of 2007, whereby he declined the appellant's prayer for issue of a mandamus to the respondents to shift Government S.V.P. High School from the premises bearing No.12-2-837/4 to Zebabagh Community Hall and directed the District Collector to make available a sum of Rs.40,000/- to District Educational Officer, Hyderabad so as to enable the latter to urgently undertake the repairs of the building.

The appellant is the owner of house bearing No.12-2-837/4, Asif Nagar, Hyderabad, which was let out to the government on a monthly rent of Rs.5,000/- for running a High School. In 2003, the appellant filed Writ Petition No.8209 of 2003 for issue of a mandamus to the respondents to shift the High School from the house in question. He relied on letter dated 18.7.2002 sent by District Educational Officer to the Deputy Educational Officer, Musthaidpura Zone and Headmaster of the school and the direction contained in letter dated 6.7.2002 sent by the Commissioner and Director of School Education to show that the building was in a dilapidated condition and was a threat to the children. The learned Single Judge disposed of the writ petition on 23.12.2003 by directing the respondents to take steps, as expeditiously as possible, for shifting of the school. After four years, the appellant filed Writ Petition No.16859 of 2007 and sought direction for shifting of the school.

In the affidavit filed by him, the appellant relied on order passed in Writ Petition No.8209 of 2003 and the letters exchanged between the official respondents to show that the building is in a dilapidated condition and averred that if the school is not shifted immediately, the lives of the children will be in danger.

On 5.10.2007, the Court appointed Sri A. Vinod Kumar, Advocate

as Commissioner to inspect the building and submit report. Sri Vinod Kumar carried out the inspection and submitted a comprehensive report along with more than 40 photographs. The report of the Commissioner was taken on record on 9.10.2007 and the case was adjourned at the request of the learned counsel for the appellant.

Today, Sri Syed Shareef Ahmed, learned counsel for the appellant filed objections to the report of the Commissioner along with four photographs. The objections and the photographs are taken on record.

We have heard learned counsel for the parties and perused the record including the report of the Advocate Commissioner and objections filed by the appellant. Though the report of the Advocate Commissioner shows that there is dampness in the walls of the building and the back portion has dilapidated structure of toilet, broken walls and collapsed staircase, a closure examination of the photographs annexed with the Advocate Commissioner's report and those produced by the counsel for the appellant makes it clear that only outer portion of the building is partially damaged. The inner portion of the building is neither in a dilapidated condition nor there appear any possibility of its collapse. From the material placed on record, it is impossible for any person of reasonable prudence to record a conclusion that the whole building is in a dilapidated condition and is likely to collapse. The letters written by the departmental authorities suggesting that the building is in a dilapidated condition appear to be the handiwork of someone, who wanted to support the cause set up by the appellant for securing vacant possession of the building.

In view of the above, we hold that the learned Single Judge rightly refused to entertain the appellant's prayer and at the same time ensured that the damaged portions of the building are immediately repaired. Therefore, we do not find any valid ground or justification to entertain the appellant's prayer for issue of a mandamus to the

respondents to shift the school from the present building.

With the above observation, the appeal is dismissed.

However, with a view to ensure that the building is thoroughly repaired at government expense without any delay, we direct the registry to post this matter before the Bench on 27th November, 2007 with a further direction to District Educational Officer, Hyderabad to submit a report about the status of the building obtaining as on 31st October, 2007, so that if any necessity arises, further direction for arranging more funds could be given to the authorities of the Education Department and the District administration.

G.S.SINGHVI, C.J.

11th October, 2007.

C.V.NAGARJUNA REDDY, J.

ARS/SVS